

Private Letter Ruling: Interest payments made by wire transfer are received at the location of the bank in which deposited into an account of the recipient.

January 4, 1999

Dear:

This is in response to your letter dated December 10, 1998, in which you request a Private Letter Ruling on behalf of xxxx xx xxxxxxxx xx & xx. The Private Letter Ruling will bind the Department only with respect to xxxx xx xxxxxxxx xx & xx for the issue or issues presented in this ruling. Issuance of this ruling is conditioned upon the understanding that neither xxxx xx xxxxxxxx xx & xx nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request.

The facts and analysis as you have presented them are as follows:

We are writing on behalf of our client, xxxx xx xxxxxxxx xx & xx (the "xxxx"), to request a Private Letter Ruling ("Ruling") from the Illinois Department of Revenue ("Department") addressing the computation of the income tax apportionment factor for a financial organization. More specifically, the Ruling would address the sourcing of loan interest income that is received via wire transfer. This ruling request is being made on behalf of the xxxx, any successors to the xxxx, and all other current and future members of the xxxx's unitary group.

Please be advised that the Department is currently conducting an income tax examination for tax years 1994 through 1996. However, the fact pattern discussed below did not exist during the audit period and, thus, the issue addressed in this request would not impact the examination. To the best of the xxxx's knowledge and our knowledge, the Department has not previously ruled on the same or a similar issue for the xxxx or a predecessor, and has not submitted the same or a similar issue to the Department, withdrawing the issue before a letter ruling was issued.

#### *Facts*

The xxxx is commercially domiciled at a location outside Illinois. The xxxx's executive management, treasury, and corporate accounting functions are conducted at this commercial domicile location. The xxxx conducts certain business activities in Illinois and several other states through branch form. In this regard, the xxxx makes various loans to Illinois-domiciled customers and, further, conducts certain "back office" operations in Illinois, such as accounting for the customers' loan remittances.

A number of the xxxx's loan customers, including the Illinois-domiciled customers, make loan remittances via wire transfers. In this regard, in accordance with Federal Reserve Board wire transfer policy, the funds associated with the loan remittances are directed to the xxxx's account at a Federal Reserve Bank located outside of Illinois, i.e., the Federal Reserve Bank for the commercial domicile

location. In accordance with Federal Reserve Board policy, the bank's only cash account balance is maintained at this Federal Reserve Bank. With respect to the wire transfer of funds, the Federal Reserve Board policy also allows for an "informational" transfer to be recorded at a "subaccount" associated with the Chicago, Illinois Federal Reserve Bank, thus, allowing the Illinois branch to more easily account for its own operations. These subaccount recordations are "cleared" daily and an account balance is not maintained at the Chicago Federal Reserve Bank.

The specific steps involved in the wire transfer remittance are as follows: (1) The borrower instructs its financial institution to wire funds to the xxxx in satisfaction of its loan remittance requirements; (2) The borrower's financial institution debits the borrower's account for the required funds and transfers the funds via wire transfer to the xxxx's Federal Reserve Bank account located outside of Illinois, i.e., the Federal Reserve Bank for the commercial domicile location; (3) Simultaneous with the transfer of the funds to the Federal Reserve Bank account located outside of Illinois, an "informational" transfer is recorded at the Bank's "account" at the Chicago Federal Reserve Bank; and (4) At the end of each day, the informational postings associated with the Chicago Federal Reserve Bank are cleared (reversed).

The xxxx first gains access to the funds when the funds are transferred to the xxxx's account at the Federal Reserve Bank located outside of Illinois. The Illinois branch recognizes the loan remittance through an internal accounting transfer that uses a "due to/due from" clearing account maintained by the xxxx's commercial domicile operations and the Illinois branch operations. In turn, Illinois branch personnel post the remittance to the borrower's liability. However, the cash value of the funds remains at the commercial domicile location's account, i.e., outside of Illinois.

#### *Proposed Ruling*

The xxxx respectfully requests a binding ruling from the Department providing that for purposes of computing the Illinois income tax apportionment factor that the Bank receives the above-mentioned wire transfer remittances of loan interest income at the Federal Reserve Bank account located outside of Illinois. Accordingly, as receipt occurs outside of Illinois, the loan interest income should be excluded from the numerator, but included in the denominator, of the Illinois apportionment factor computation.

#### *Analysis*

The relevant sections of 35 Ill. Comp. Stat. 5/304 state (emphasis added):

Business income of a financial organization shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is its business income from sources within this State, and the denominator of which is its business income from all sources. For the

purposes of this subsection, the business income of a financial organization from sources within this State is the sum of the amounts referred to in subparagraphs (A) through (E) following, but excluding the adjusted income of an international banking facility as determined in paragraph (2):

A) Fees, commissions or other compensation for financial services rendered within this State;

B) Gross profits from trading in stocks, bonds or other securities managed within this State;

**C) Dividends, and interest from Illinois customers, which are received within this State;**

D) Interest charged to customers at places of business maintained within this State for carrying debit balances of margin accounts, without deduction of any costs incurred in carrying such accounts; and

E) Any other gross income resulting from the operation as a financial organization within this State. In computing the amounts referred to in paragraphs (A) through (E) of this subsection, any amount received by a member of an affiliated group (determined under Section 1504(a) of the Internal Revenue Code but without reference to whether any such corporation is an "includible corporation" under Section 1504(b) of the Internal Revenue Code) from another member of such group shall be included only to the extent such amount exceeds expenses of the recipient directly related thereto.

Thus, loan interest income from Illinois customers is included in the Illinois numerator only if "received" within Illinois. No regulations have been promulgated by the Department with respect to the apportionment factor computation for financial organizations. However, in several letter rulings,<sup>1</sup> the IDOR has indicated that it sources interest income from Illinois customers to Illinois if it is received in Illinois; the rulings do not consider the occurrence of other servicing activities. To our knowledge, the Department has not ruled specifically on where receipt is deemed to occur for loan interest remitted via wire transfer.

In accordance with Federal Reserve Board policy, all loan interest remitted via wire transfer is received at the xxxx'x account maintained at the Federal Reserve Bank located outside of Illinois. As noted above, an informational entry is simultaneously posted to the xxxx'x Chicago Federal Reserve subaccount. This informational posting is for purposes of facilitating separate reports of branch operations and does not possess any cash value. These informational postings are reversed at the end of each day and an account balance is not

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<sup>1</sup> PLRs 91-45, 94-124, and 95-32.

maintained. In accordance with Federal Reserve Board policy, the xxxx'x only cash account balance is maintained at the Federal Reserve Bank located outside of Illinois.

Given that the xxxx first gains access to the funds as of the transfer to its account at the Federal Reserve Bank located outside of Illinois, this location should be treated as the location where receipt occurs for purposes of computing the Illinois income tax apportionment factor. The informational transfer posted to the xxxx'x subaccount should not be taken into consideration for purposes of computing the apportionment factor. Also, the subsequent transfer to the Illinois branch via the internal accounting entries involving the "due to/due from" clearing accounts maintained by the commercial domicile and the Illinois branch operations should not impact the apportionment factor computation since no cash value is being transferred.

Based on the above, the xxxx takes receipt of the loan interest income when the funds are deposited into the xxxx'x account at the Federal Reserve Bank located outside of Illinois. As such, the loan interest income should be excluded from the numerator of the xxxx'x Illinois apportionment factor computation.

### **Ruling**

Section 304(c)(1)(C) of the Illinois Income Tax Act (the "IITA"; 35 ILCS 5/101 et seq.) provides that items of interest income from Illinois customers "which are received within this State" are sourced to Illinois. The term "received within this State" is not defined in the IITA or in any relevant authority. Under the facts represented in your letter, interest payments received via wire transfer to the Bank's account at a Federal Reserve Bank outside of Illinois are not "received within this State." The informational transfers and temporary postings to a subaccount at the Federal Reserve Bank of Chicago, as described in your letter, do not cause the payments to be "received within this State" within the meaning of Section 304(c)(1)(C) of the IITA.

The facts upon which this ruling are based are subject to review by the Department during the course of any audit, investigation or hearing and this ruling shall bind the Department only if the material facts as recited in this ruling are correct and complete. This ruling will cease to bind the Department if there is a pertinent change in statutory law, case law, rules or in the material facts recited in this ruling.

Very truly yours,

Bill Lundeen  
Chief Counsel -- Illinois Department of Revenue